AF $

PATENT
Customer No. 22,852
Attorney Docket No. 09812.0625-00

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	
Akira NONAKA	Group Art Unit: 3621
Application No.: 09/803,396	Examiner: Kucab, Jamie R.
Filed: March 9, 2001	Confirmation No.: 8707
For: DATA DISTRIBUTION SYSTEM AND METHOD OF SAME, DATA PROCESSING APPARATUS AND METHOD OF SAME, AND DATA RECORDING MEDIUM	

Attention: Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

APPEAL BRIEF UNDER BOARD RULE § 41.37

In support of the Notice of Appeal filed October 26, 2007, and further to 37 C.F.R. 41.37(a)(1), Appellant presents this brief and encloses herewith a check for the fee of $510.00 required under 37 C.F.R. 41.20(b)(2).

This Appeal responds to the final rejection of claims 1, 3-18, 26, 31, and 33-35 in the Office Action mailed June 13, 2007.

If any additional fees are required or if the enclosed payment is insufficient, Appellant requests that the required fees be charged to Deposit Account No. 06-0916.

12/27/2007 JADD01 00000069 09803396
510.00 OP
01 FC:1402

TABLE OF CONTENTS

I. Real Party in Interest

SONY corporation is the real party in interest.

II. Related Appeals and Interferences

There are currently no other appeals or interferences, of which Appellant, Appellant's legal representative, or assignee are aware, that will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

III. Status of Claims

Claims 1, 3-18, 26, 31, and 33-35 stand rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent No. 5,513,260 to Ryan ("*Ryan*"), in view of U.S. Patent No. 5,629,980 to Stefik et al. ("*Stefik*"), and further in view of U.S. Patent No. 5,446,488 to Vogel ("*Vogel*").

Appellant appeals the rejection of claims 1, 3-18, 26, 31, and 33-35. The attached Appendix contains a clean copy of these claims.

IV. Status of Amendments

No amendments have been filed subsequent to the final rejection of claims 1, 3-18, 26, 31, and 33-35 in the Office Action mailed June 13, 2007.

V. Summary of Claimed Subject Matter

Independent claims 1, 26, and 31 recite a data distribution system and method and a data processing apparatus for recording and reproducing content data. The invention provides a system, method, and apparatus capable of suitably grasping an operating environment in a system where various types of apparatuses are connected. The system distributes data, controls copying of the data, controls charge processing, and controls profit distribution, for example.

Independent claim 1 is directed to a data distribution system. *See*, for example, specification at page 16, line 24 - page 17, line 7 and Fig. 1. The system includes a reproducing apparatus for reproducing content data distributed from a mounted recording medium. *See*, for example, specification at page 22, line 1 - page 24, line 13 and Fig. 1, ref. 400. The system includes a recording apparatus for recording said reproduced content data on a mounted recording medium. *See*, for example, specification at page 22, line 1 - page 24, line 13 and Fig. 1, ref. 400. The system also includes an examining means for examining usage space information of the content data recorded on the recording medium mounted in said reproducing apparatus, the recording medium mounted in said reproducing apparatus, said reproducing apparatus, the recording medium mounted in said recording apparatus, and said recording apparatus. *See*, for example, specification at page 30, line 5 - page 31, line 19 and Fig. 1, ref. 1. The system further includes a controlling means for controlling transfer of said content data from said recording medium mounted in said reproducing apparatus to said recording medium mounted in said recording apparatus based on the result of said examination. *See*, for example, specification at page 26, line 10 - page 30, line 2 and

Fig. 1, ref. 400. The usage space information indicates system information of said recording apparatus and said reproducing apparatus, ownership right information of said content data, format information of said content data, and distributing profit information obtained by the distribution of said content data. *See*, for example, specification at page 31, line 20 - page 39, line 15. The examining means examines whether said content data is of a first type which is distributed in an encrypted state or of a second type which is distributed in an unencrypted state. *See*, for example, specification at page 31, line 24 - page 37, line 24 and Fig. 1, ref. 1. The examining means examines whether said recording medium is of a first type having a configuration enabling recorded data to be effectively read out by performing authentication processing or of a second type having no such configuration and enabling read out of the recorded data without authentication. *See*, for example, specification at page 31, line 24 - page 37, line 24 and Fig. 1, ref. 1. The examining means also examines whether said reproducing apparatus is of a first type for reproducing after the authentication processing or of a second type for reproducing without that processing. *See*, for example, specification at page 31, line 24 - page 37, line 24 and Fig. 1, ref. 1. The examining means further examines whether said recording apparatus is of a first type for recording after the authentication processing or of a second type for recording without that processing. *See*, for example, specification at page 31, line 24 - page 37, line 24 and Fig. 1, ref. 1.

Independent claim 26 is directed to a data distribution method. *See*, for example, specification at page 4, lines 14-17. The method includes examining usage space information of content data distributed on a recording medium mounted in a reproducing

apparatus, a recording medium mounted in said reproducing apparatus, said reproducing apparatus, a recording medium mounted in a recording apparatus, and said recording apparatus. *See*, for example, specification at page 30, line 5 - page 31, line 19. The method includes controlling the transfer of said content data from said recording medium mounted in said reproducing apparatus to said recording medium mounted in said recording apparatus based on the result of said examining. *See*, for example, specification at page 26, line 10 - page 30, line 2. The usage space information indicates system information of said recording apparatus and said reproducing apparatus, ownership right information of said content data, format information of said content data, and distributing profit information obtained by the distribution of said content data. *See*, for example, specification at page 31, line 20 - page 39, line 15. The method examines whether said content data of a first type which is distributed in an encrypted state or of a second type which is distributed in an unencrypted state. *See*, for example, specification at page 31, line 24 - page 37, line 24. The method also examines whether said recording medium is of a first type having a configuration enabling recorded data to be effectively read out by performing authentication processing or of a second type having no such configuration and enabling read out of the recorded data without authentication. *See*, for example, specification at page 31, line 24 - page 37, line 24. The method also examines whether said reproducing apparatus is of a first type for reproducing after the authentication processing or of a second type for reproducing without that processing. *See*, for example, specification at page 31, line 24 - page 37, line 24. The method further examines whether said recording apparatus is a of a first type for recording after the

authentication processing or of a second type for recording without that processing. *See*, for example, specification at page 31, line 24 - page 37, line 24.

Independent claim 31 is directed to a data processing apparatus. *See*, for example, specification at page 4, lines 14-17. The apparatus includes a reproducing apparatus for reproducing content data distributed from a mounted recording medium. *See*, for example, specification at page 22, line 1 - page 24, line 13 and Fig. 1, ref. 400. The apparatus also includes an examining means for examining usage space information of the content data recorded on a recording medium mounted in said reproducing apparatus, a recording medium mounted in said reproducing apparatus, and said reproducing apparatus. *See*, for example, specification at page 30, line 5 - page 31, line 19 and Fig. 1, ref. 1. The apparatus further includes a controlling means for controlling the reproduction of the content data from said recording medium mounted in said reproducing apparatus based on results of said examination the result of said examination. *See*, for example, specification at page 26, line 10 - page 30, line 2 and Fig. 1, ref. 400. The usage space information indicates system information of said recording apparatus and said reproducing apparatus, ownership right information of said content data, format information of said content data, and distributing profit information obtained by the distribution of said content data. *See*, for example, specification at page 31, line 20 - page 39, line 15. The examining means examines whether said content data is to of a first type which is distributed in an encrypted state or of a second type which is distributed in an unencrypted state. *See*, for example, specification at page 31, line 24 - page 37, line 24 and Fig. 1, ref. 1. The examining means also examines whether said recording medium is of a first type having a

configuration enabling recorded data to be effectively read out by performing authentication processing or of a second type having no such configuration and enabling read out of the recorded data without authentication. *See*, for example, specification at page 31, line 24 - page 37, line 24 and Fig. 1, ref. 1. The examining means further examines whether said reproducing apparatus is of a first type for reproducing after the authentication processing or a second type for reproducing without that processing. *See*, for example, specification at page 31, line 24 - page 37, line 24 and Fig. 1, ref. 1.

VI. Grounds of Rejection

A. Claims 1, 3-18, 26, 31, and 33-35 stand rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent No. 5,513,260 to Ryan ("*Ryan*"), in view of U.S. Patent No. 5,629,980 to Stefik et al. ("*Stefik*"), and further in view of U.S. Patent No. 5,446,488 to Vogel ("*Vogel*").

VII. Argument

A. The rejection of claims 1, 3-18, 26, 31, and 33-35 under § 103(a) as unpatentable over *Ryan*, *Stefik*, and *Vogel* is improper

The Examiner's rejection of claims 1, 3-18, 26, 31, and 33-35 under 35 U.S.C. § 103(a) as being unpatentable over *Ryan*, *Stefik*, and *Vogel* should be reversed. The references cited by the Examiner, *Ryan*, *Stefik*, and *Vogel*, do not teach or suggest each and every element of claims 1, 3-18, 26, 31, and 33-35.

Claim 1 recites a data distribution system including, for example:

> a reproducing apparatus . . .
> a recording apparatus. . .
> an examining means . . .
> a controlling means . . .
> . . .
> wherein said examining means;
> examines whether said content data is of a first type which is distributed in an encrypted state or of a second type which is distributed in an unencrypted state,
> examines whether said recording medium is of a first type having a configuration enabling recorded data to be effectively read out by performing authentication processing or of a second type having no such configuration and enabling read out of the recorded data without authentication,
> examines whether said reproducing apparatus is of a first type for reproducing after the authentication processing or of a second type for reproducing without that processing, and
> examines whether said recording apparatus is of a first type for recording after the authentication processing or of a second type for recording without that processing.

(emphasis added).

Ryan discloses a CD player that looks for an authentication signature on the CD (col. 2, lines 65-67). If the authentication signature is present, the player will play the CD. If the authentication signature is not present, the player will not play the CD (col. 2, lines 32-44). The Examiner states that *Ryan* "discloses a means for reproducing

content (cd player), a recorder and means there between for examining and controlling transfer (black boxes)" (Final Office Action at pages 3-4). The Examiner also cites col. 3, line 63 - col. 4, line 11 to disclose several elements of the examining means (Final Office Action at page 5). Appellant respectfully disagrees.

According to col. 3, line 63 - col. 4, line 11 of *Ryan*, a special instruction may exist to tell a CD player to look for an authenticating signature and only play those CDs that have the signature. This instruction may be omitted from CDs and programs "which do not require copy-protection and for such programs both original CDs and copies thereof would play normally" (col. 3, lines 64-66). In this example, copy protection may be offered on a program by program basis. Therefore, even though the instruction may not be contained on an initialization section of a CD, a "Look for . . ." instruction is used to achieve copy protection.

According to *Ryan*, the above example of copy protection may be compromised by "special black boxes." These black boxes may remove or modify the "Look for . . ." instruction so that an illicit copy may be played. The black boxes, which the Examiner appears to correspond to the claimed "recording apparatus," are not examined by an "examining means."

Nothing in *Ryan* examines whether a black box "is of a first type having a configuration enabling recorded data to be effectively read out by performing authentication processing or of a second type having no such configuration and enabling read out of the recorded data without authentication," as recited in claim 1.

In addition, nothing in *Ryan* teaches or suggests that the black box records any information. Even assuming that the black box could record information, which

Appellant does not concede, *Ryan* does not teach or suggest examining whether the black box "is of a first type for recording after the authentication processing or of a second type for recording without that processing," as further recited in claim 1.

In *Ryan*, the CD player plays the contents of the CD. The CD player normally knows whether to play the contents based on the authenticating signature. As previously stated, a black box may successfully trigger the CD player to play an illicit copy. Regardless of whether the contents are authenticated or illicit, the CD player, which allegedly corresponds to the claimed "reproducing apparatus," is not examined to determine if it "is of a first type for reproducing after the authentication processing or of a second type for reproducing without that processing." There is no teaching or suggestion in *Ryan* that the CD player is examined.

Assuming, *arguendo*, that the CD recorder in *Ryan* could also correspond to the claimed "recording apparatus," Appellant finds no teaching or suggestion in *Ryan* that the CD recorder is examined to determine whether it "is of a first type having a configuration enabling recorded data to be effectively read out by performing authentication processing or of a second type having no such configuration and enabling read out of the recorded data without authentication," and "is of a first type for recording after the authentication processing or of a second type for recording without that processing," as recited in claim 1.

The Examiner correctly states that *Ryan* does not disclose "wherein said usage space information indicates system information of said recording apparatus and said reproducing apparatus, ownership right information of said content data, format information of said content data, and distributing profit information obtained by the

distribution of said content data," as recited in claim 1 (Final Office Action at page 4). The Examiner relies on *Stefik* to allegedly cure the deficiencies of *Ryan* (Final Office Action at pages 4-5).

Stefik discloses a "system for controlling use and distribution of digital works" (col. 3, lines 51-52). The system "allows the owner of a digital work to attach usage rights to the work" (col. 3, lines 56-57).

Fig. 15 of *Stefik* lists usage rights grammar, and Fig. 16 depicts the "registration transaction between two repositories" (col. 27, lines 43-44). In Fig. 16, repository-1 "generates an encrypted registration identifier," "generates a message," and "transmits the registration message to repository-2" (col. 27, lines 49-67). Repository-2 "determines if it has the needed public key," and, if it does, "the identification certificate is decrypted" (col. 28, lines 6-7). The registration identifier is extracted, saved, and checked against a "hotlist" (col. 28, lines 8-11). The registration identification is verified, a performance message is transmitted to repository-1, decrypted, and, if the repositories are correct, a "nonce" is transmitted from repository-1 to repository-2 and compared (col. 28, lines 32-63).

Stefik discloses generating an "encryption registration identifier." However, *Stefik* does not disclose the claimed "examining means" that examines "content data," the "recording medium," the "reproducing apparatus," and the "recording apparatus," as recited in claim 1. Therefore, *Stefik* does not teach or suggest the claimed combination of elements including an examining means that "examines whether said content data is of a first type which is distributed in an encrypted state or of a second type which is distributed in an unencrypted state, examines whether said recording medium is of a

first type having a configuration enabling recorded data to be effectively read out by performing authentication processing or of a second type having no such configuration and enabling read out of the recorded data without authentication, examines whether said reproducing apparatus is of a first type for reproducing after the authentication processing or of a second type for reproducing without that processing, and examines whether said recording apparatus is of a first type for recording after the authentication processing or of a second type for recording without that processing," as recited in claim 1.

The Examiner correctly states that *Ryan* and *Stefik* do not disclose distributing data in an encrypted and unencrypted state (Final Office Action at page 5). The Examiner relies on *Vogel* to allegedly disclose distributing data in an encrypted and unencrypted state (Final Office Action at pages 5-6).

Even assuming that this assertion is correct, which Appellant does not concede, *Vogel* does not cure the deficiencies of *Ryan* and *Stefik* discussed above. *Vogel* discloses a "method of distributing television programs" (col. 4, lines 514-15). *Vogel* does not teach or suggest the claimed combination of elements including an examining means that "examines whether said content data is of a first type which is distributed in an encrypted state or of a second type which is distributed in an unencrypted state, examines whether said recording medium is of a first type having a configuration enabling recorded data to be effectively read out by performing authentication processing or of a second type having no such configuration and enabling read out of the recorded data without authentication, examines whether said reproducing apparatus is of a first type for reproducing after the authentication processing or of a second type

for reproducing without that processing, and examines whether said recording apparatus is of a first type for recording after the authentication processing or of a second type for recording without that processing," as recited in claim 1.

Accordingly, *Ryan*, *Stefik*, and *Vogel* fail to establish a prima facie case of obviousness with respect to claim 1, at least because the references, even if combined, fail to teach each and every element of the claim. Claims 3-18 depend from claim 1 and are thus also allowable over *Ryan*, *Stefik*, and *Vogel*, for at least the same reasons as claim 1.

Independent claims 26 and 31, while of different scope, are also allowable over *Ryan*, *Stefik*, and *Vogel*. Claims 33-35 are also allowable at least due to their dependence from independent claim 31.

Therefore, Appellant respectfully requests that the Board reverse the rejection of these claims under 35 U.S.C. § 103(a).

B. Conclusion

For the reasons given above, pending claims 1, 3-18, 26, 31, and 33-35 are allowable and reversal of the Examiner's rejections is respectfully requested.

To the extent any extension of time under 37 C.F.R. § 1.136 is required to obtain entry of this Appeal Brief, such extension is hereby respectfully requested. If there are any fees due under 37 C.F.R. §§ 1.16 or 1.17 which are not enclosed herewith, including any fees required for an extension of time under 37 C.F.R. § 1.136, please charge such fees to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: December 26, 2007

By: /Michael R. Kelly/
Michael R. Kelly
Reg. No. 33,921

VIII. Claims Appendix to Appeal Brief Under Rule 41.37(c)(1)(viii)

1. A data distribution system comprising:

a reproducing apparatus for reproducing content data distributed from a mounted recording medium;

a recording apparatus for recording said reproduced content data on a mounted recording medium;

an examining means for examining usage space information of the content data recorded on the recording medium mounted in said reproducing apparatus, the recording medium mounted in said reproducing apparatus, said reproducing apparatus, the recording medium mounted in said recording apparatus, and said recording apparatus; and

a controlling means for controlling transfer of said content data from said recording medium mounted in said reproducing apparatus to said recording medium mounted in said recording apparatus based on the result of said examination;

wherein said usage space information indicates system information of said recording apparatus and said reproducing apparatus, ownership right information of said content data, format information of said content data, and distributing profit information obtained by the distribution of said content data, and

wherein said examining means;

examines whether said content data is of a first type which is distributed in an encrypted state or of a second type which is distributed in an unencrypted state,

examines whether said recording medium is of a first type having a

configuration enabling recorded data to be effectively read out by performing authentication processing or of a second type having no such configuration and enabling read out of the recorded data without authentication,

examines whether said reproducing apparatus is of a first type for reproducing after the authentication processing or of a second type for reproducing without that processing, and

examines whether said recording apparatus is of a first type for recording after the authentication processing or of a second type for recording without that processing.

3. A data distribution system as set forth in claim 1, wherein said controlling means disables the reproduction when said usage information indicates that the content data is of said first type, the recording medium mounted in the reproducing apparatus is said second type of recording medium, and said reproducing apparatus is said second type of reproducing apparatus.

4. A data distribution system as set forth in claim 1, wherein said controlling means disables the reproduction when that the content data is of said first type, the recording medium mounted in the reproducing apparatus is said second type of recording medium, and said reproducing apparatus is said first type of reproducing apparatus.

5. A data distribution system as set forth in claim 1, wherein said controlling means enables the reproduction when said usage information indicates that the content

data is of said second type, the recording medium mounted in the reproducing apparatus is said second type of recording medium, and said reproducing apparatus is said second type of reproducing apparatus.

6. A data distribution system as set forth in claim 1, wherein said controlling means enables the reproduction when said usage information indicates that the content data is of said second type, the recording medium mounted in the reproducing apparatus is said second type of recording medium, and said reproducing apparatus is said first type of reproducing apparatus.

7. A data distribution system as set forth in claim 1, wherein said controlling means disables the reproduction when said usage information indicates that the content data is of said first type, the recording medium mounted in the reproducing apparatus is said first type of recording medium, and said reproducing apparatus is said second type of reproducing apparatus.

8. A data distribution system as set forth in claim 1, wherein said controlling means enables the reproduction when said usage information indicates that the content data is of said first type, the recording medium mounted in the reproducing apparatus is said first type of recording medium, and said reproducing apparatus is said first type of reproducing apparatus.

9. A data distribution system as set forth in claim 1, wherein said controlling means enables the reproduction when said usage

information indicates that the content data is content data of said second type, the recording medium mounted in the reproducing apparatus is said first type of recording medium, and said reproducing apparatus is said second type of reproducing apparatus.

10. A data distribution system as set forth in claim 1, wherein said controlling means enables the reproduction when said usage

information indicates that the content data is of said second type, the recording medium mounted in the reproducing apparatus is said first type of recording medium, and said reproducing apparatus is said first type of reproducing apparatus.

11. A data distribution system as set forth in claim 1, wherein said controlling means disables the recording when usage information indicates that the content data is content data of said first type, the recording medium mounted in the recording apparatus is said second type of recording medium, and said recording apparatus is said second type of recording apparatus.

12. A data distribution system as set forth in claim 1, wherein said controlling means disables the recording when usage information indicates that the content data is of said first type, the recording medium mounted in the recording apparatus is said

second type of recording medium, and said recording apparatus is said first type of recording apparatus.

13. A data distribution system as set forth in claim 1, wherein said controlling means enables the recording when said usage information indicates that the content data is of said second type, the recording medium mounted in the recording apparatus is said second type of recording medium, and said recording apparatus is said second type of recording apparatus.

14. A data distribution system as set forth in claim 1, wherein said controlling means enables the recording when said usage information indicates that the content data is of said second type, the recording medium mounted in the recording apparatus is said second type of recording medium, and said recording apparatus is said first type of recording apparatus.

15. A data distribution system as set forth in claim 1, wherein said controlling means disables the recording when that the content data is of said first type, the recording medium mounted in the recording apparatus is said first type of recording medium, and said recording apparatus is said second type of recording apparatus.

16. A data distribution system as set forth in claim 1, wherein said controlling means enables the recording when said usage information indicates that the content data is content data of said first type, the recording medium mounted in the recording

apparatus is said first type of recording medium, and said recording apparatus is said first type of recording apparatus.

17. A data distribution system as set forth in claim 1, wherein said controlling means enables the recording when said usage information indicates that the content data is content data of said second type, the recording medium mounted in the recording apparatus is said first type of recording medium, and said recording apparatus is said second type of recording apparatus.

18. A data distribution system as set forth in claim 1, wherein said controlling means enables the recording when said usage information indicates said usage information indicates that the content data is content data of said second type, the recording medium mounted in the recording apparatus is said first type of recording medium, and said recording apparatus is said first type of recording apparatus.

26. A data distribution method comprising the steps of:

examining usage space information of content data distributed on a recording medium mounted in a reproducing apparatus, a recording medium mounted in said reproducing apparatus, said reproducing apparatus, a recording medium mounted in a recording apparatus, and said recording apparatus; and

controlling the transfer of said content data from said recording medium mounted in said reproducing apparatus to said recording medium mounted in said recording apparatus based on the result of said examining;

wherein said usage space information indicates system information of said recording apparatus and said reproducing apparatus, ownership right information of said content data, format information of said content data, and distributing profit information obtained by the distribution of said content data, and

wherein said examining;

examines whether said content data of a first type which is distributed in an encrypted state or of a second type which is distributed in an unencrypted state,

examines whether said recording medium is of a first type having a configuration enabling recorded data to be effectively read out by performing authentication processing or of a second type having no such configuration and enabling read out of the recorded data without authentication,

examines whether said reproducing apparatus is of a first type for reproducing after the authentication processing or of a second type for reproducing without that processing, and

examines whether said recording apparatus is a of a first type for recording after the authentication processing or of a second type for recording without that processing.

31. A data processing apparatus comprising:

a reproducing apparatus for reproducing content data distributed from a mounted recording medium;

an examining means for examining usage space information of the content data recorded on a recording medium mounted in said reproducing apparatus, a recording medium mounted in said reproducing apparatus, and said reproducing apparatus; and

a controlling means for controlling the reproduction of the content data from said recording medium mounted in said reproducing apparatus based on results of said examination the result of said examination;

wherein said usage space information indicates system information of said recording apparatus and said reproducing apparatus, ownership right information of said content data, format information of said content data, and distributing profit information obtained by the distribution of said content data, and

wherein said examining means;

examines whether said content data is to of a first type which is distributed in an encrypted state or of a second type which is distributed in an unencrypted state,

examines whether said recording medium is of a first type having a configuration enabling recorded data to be effectively read out by performing authentication processing or of a second type having no such configuration and enabling read out of the recorded data without authentication, and

examines whether said reproducing apparatus is of a first type for reproducing after the authentication processing or a second type for reproducing without that processing.

33. A data processing apparatus as set forth in claim 31, wherein said controlling means disables the reproduction when said usage information indicates that the content data is of said first type, the recording medium mounted in the reproducing apparatus is said second type of recording medium, and said reproducing apparatus is said second type of reproducing apparatus.

34. A data processing apparatus as set forth in claim 31, wherein said controlling means disables the reproduction when said usage information indicates that the content data is of said first type, the recording medium mounted in the reproducing apparatus is said second type of recording medium, and said reproducing apparatus is said first type of reproducing apparatus.

35. A data processing apparatus as set forth in claim 31, wherein said controlling means disables the reproduction when said usage information indicates that the content data is of said first type, the recording medium mounted in the reproducing apparatus is said first type of recording medium, and said reproducing apparatus is said second type of reproducing apparatus.

IX. Evidence Appendix to Appeal Brief Under Rule 41.37(c)(1)(ix)

None.

X. Related Proceedings Appendix to Appeal Brief Under Rule 41.37(c)(1)(x)

None.